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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/276,716	03/26/1999	MASATOSHI YOKOTA	0020-4539P	2499

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[REDACTED] EXAMINER

BUTTNER, DAVID J

ART UNIT	PAPER NUMBER
1712	15

DATE MAILED: 02/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

T-D-15

<b>Office Action Summary</b>	Application No. <b>09/276,716</b>	Applicant(s) <b>YOKOTA</b>
	Examiner <b>BUTTNER</b>	Art Unit <b>1712</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on Nov 26, 2001
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 1 and 3-14 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1 and 3-14 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.
- 12)  The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- 15)  Notice of References Cited (PTO-892)      18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      19)  Notice of Informal Patent Application (PTO-152)
- 17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_      20)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

Claims 1 and 5-14 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the Moriyama '802 patent.

Moriyama '802 exemplifies (#1-3) three layer balls having a soft outer cover and a hard inner cover. The core has a deformation of 3.7 to 5.0 (col. 3 line 5).

The reference does not measure JIS-C hardness. However it is known that such cores inherently have uniform JIS-C values within the claimed range (see Tanaka '663's tables and vulcanization method).

Claims 1 and 5-14 rejected under 35 U.S.C. 103(a) as being unpatentable over the Moriyama '802 patent in view of Tanaka '663.

Moriyama '802 exemplifies (#1-3) three layer balls having a soft outer cover and a hard inner cover. The core has a deformation of 3.7 to 5.0 (col. 3, line 5).

Moriyama does not measure his core's JIS-C hardness or uniformity thereof. Applicant (paper #14 table 1) has shown the core has a JIS-C surface hardness of 75. However, according to applicant's declaration this hardness is not uniform throughout the core.

It is known that cores with uniform hardness improves ball properties (col. 3 line 5-7 of Tanaka) and typically are within the JIS-C range claimed by applicant.

It would have been obvious to ensure Moriyama's core hardness is uniform for the expected advantages.

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Claims 1 and 3-14 rejected under 35 U.S.C. 103(a) as being unpatentable over the Moriyama '856 patent in view of Sullivan '356.

Moriyama discloses golf balls having the same core used by applicant (examples 1-3). Moriyama's core can have two covers (col. 4 line 24-29). Moriyama does not provide details of the dual cover.

Dual covered balls having a hard, highly filled inner cover and soft outer cover are known to be advantageous (see Sullivan's abstract, claim 33, col. 41 lines 48-54, col. 32, lines 9, 26).

It would have been obvious to ensure Moriyama's dual cover has the shore D and density characteristics taught by Sullivan for the expected advantages.

Applicant's arguments filed 11/26/01 have been considered but are not persuasive.

The declaration (paper #14) is convincing that Asakura's comparison example is not anticipatory. The declaration is not convincing in regards to Moriyama '802. Inexplicably, the declaration vulcanizes for 30 minutes @ 145°C. The reference vulcanized for 35 minutes.

Applicant argues Tanaka lacks the cover of instant claims.

This is not convincing. Tanaka is relied on to teach the advantages of cores having uniform hardness. The primary reference (Moriyama '802) has the required covers. Attacking the references individually does not show unobviousness (MPEP 2145 (iv)).

Applicant argues Sullivan '356 does not teach the required cover hardness.

The examiner has specifically pointed out the preferred harnesses of the inner and outer cover in each of the last two office actions. Sullivan teaches an inner cover shore D of 70 (col. 32

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line 9) and an outer cover hardness of 56 (col. 32 line 26) are his most preferred values. These values are also exemplified in samples 32 and 33.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Buttner whose telephone number is (703) 308-2403. The examiner can normally be reached on weekdays from 10 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson, can be reached on (703) 308-2340. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

DAVID J. BUTTNER  
PRIMARY EXAMINER

DButtner:evh

2/26/02

